No. 134

In the Supreme Court of the United States

OCTOBER TERM, 1944

UNITED STATES, PETITIONER

v.

LOUIS TOWNSLEY

PETITION FOR A WRIT OF CERTIORARI TO THE COURT OF CLAIMS

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The Solicitor General, on behalf of the United States, respectfully prays that a writ of certiorari issue to review the judgment of the Court of Claims in this case.

OPINIONS BELOW

The opinions of the Court of Claims (R. 14–29) have not yet been officially reported.

JURISDICTION

The original judgment of the Court of Claims was entered on October 4, 1943 (R. 3). On March 6, 1944, the Court overruled the Government's motion for a new trial, vacated its order of October 4, 1943, and entered new findings of fact

and conclusions of law (R. 29). The jurisdiction of this Court is invoked under the provisions of Section 3 (b) of the Act of February 13, 1925, as amended by the Act of May 22, 1939.

QUESTIONS PRESENTED

(1) Whether Section 23 of the Act of March 28, 1934, insofar as it provides for overtime compensation for services in excess of 40 hours per week, applies to Government employees whose compensation is fixed on a monthly basis.

(2) If the foregoing question is answered in the affirmative, whether the Court of Claims employed the proper method for determining the daily rate upon which overtime compensation is to be calculated.

STATUTES INVOLVED

Section 23 of the Act of March 28, 1934, c. 102, 48 Stat. 522 (5 U. S. C. 673c) provides:

> The weekly compensation, minus any general percentage reduction which may be prescribed by Act of Congress, for the several trades and occupations, which is set by wage boards or other wage-fixing authorities, shall be reestablished and maintained at rates not lower than necessary to restore the full weekly earnings of such employees in accordance with the full-time weekly earnings under the respective wage schedules in effect on June 1, 1932: *Provided*, That the regular hours of labor shall

not be more than forty per week; and all overtime shall be compensated for at the rate of not less than time and one half.

Section 6 of the Act of June 30, 1906, c. 3914, 34 Stat. 763 (5 U. S. C. 84) provides:

> Hereafter, where the compensation of any person in the service of the United States is annual or monthly the following rules for division of time and computation of pay for services rendered are hereby established: Annual compensation shall be divided into twelve equal installments, one of which shall be the pay for each calendar month; and in making payments for a fractional part of a month one thirtieth of one of such installments, or of a monthly compensation, shall be the daily rate of pay. For the purpose of computing such compensation and for computing time for services rendered during a fractional part of a month in connection with annual or monthly compensation, each and every month shall be held to consist of thirty days, without regard to the actual number of days in any calendar month, thus excluding the thirty-first of any calendar month, from the computation and treating February as if it actually had thirty days. Any person entering the service of the United States during a thirty-one day month and serving until the end thereof shall be entitled to pay for that month from the date of entry to the 30th day of said month, both days inclusive; and any person entering said

service during the month of February and serving until the end thereof shall be entitled to one month's pay, less as many thirtieths thereof as there were days elapsed prior to date of entry: *Provided*, That for one day's unauthorized absence on the thirty-first day of any calendar month one day's pay shall be forfeited.

STATEMENT

Respondent, an employee of the Panama Canal (an instrumentality of the United States) brought suit on March 14, 1940, in the Court of Claims, claiming that he was entitled under Section 23 of the Act of March 28, 1934, *supra*, to compensation at the rate of "time and one-half" for all overtime services rendered in excess of 40 hours per week. The undisputed facts, as found by the Court of Claims, are as follows:

Between March 28, 1934, and August 31, 1939, respondent was successively employed as operator, chief operator, and master of the dredge *Las Cruces* which was operated by the Panama Canal (R. 5). His monthly rate of pay was fixed by the Governor of the Canal, pursuant to the recommendation of a wage board (R. 5–6). He worked 8 hours per day and 6 days per week, a total of 48 hours per week (R. 6). Neither respondent nor any other operator similarly employed made any formal demand to be placed on a 40-hour week schedule or to be paid overtime for time worked in excess of 40 hours per week after March

28, 1934.[1] However, immediately before his retirement on August 29, 1939, respondent wrote the Executive Secretary of the Panama Canal that he believed he should have been placed on a 40-hour week and that he proposed to submit a claim to the Court of Claims for overtime compensation for services in excess thereof (R. 13).

Inasmuch as respondent was employed and paid on a monthly basis, the official records of the Canal did not show the hours he actually worked. From data furnished by the timekeeper of the *Las Cruces*, however, the court below made the following computation of the number of days of 8 hours each which respondent had worked in excess of 40 hours a week (R. 13–14):

Period	Position	Monthly Salary	Days
March 28, 1934, to January 6, 1937	Operator	$306	105½
January 7, 1937, to November 30, 1937	Chief Operator	311	45
December 1, 1937, to August 31, 1939	Master	336	84

The court reduced respondent's monthly salary to a daily basis by multiplying the monthly rate by 12, dividing the product by 52 to give the weekly salary, and then dividing that quotient

[1] While the court failed to make any specific finding in this respect, it is undisputed that neither respondent nor any other monthly employee employed by the Panama Canal was paid overtime. This was due to several rulings issued by the Comptroller General shortly after passage of the Act of March 28, 1934, to the effect that monthly employees were not entitled to overtime. 14 Comp. Gen. 156, 164.

by 5 to obtain the daily rate of $14.12, $14.35 and $15.51 a day, respectively (thus computing the salary on the basis of a 5-day, 40-hour week). Combining these calculations, the Court of Claims found that there was due and owing to respondent as overtime pay the sum of $5,157.57, for which it entered judgment on the ground that respondent was entitled to overtime compensation under Section 23 of the 1934 Act. (R. 13–14.) Judge Whitaker dissented on the ground that Section 23 was not to be construed as applicable to monthly employees.

SPECIFICATION OF ERRORS TO BE URGED

The Court of Claims erred:

(1) In holding that Section 23 of the Act was applicable to employees paid on a monthly basis.

(2) In holding that respondent was entitled to overtime compensation under Section 23 of the 1934 Act for services rendered in excess of 40 hours per week.

(3) In determining the daily rate of pay, for the purpose of computing overtime compensation, by dividing the annual salary by 52 and then dividing the quotient by 5, instead of dividing the monthly rate of pay by 30.

(4) In entering judgment for respondent.

REASONS FOR GRANTING THE WRIT

The court below held that respondent came within Section 23 of the Act of March 28, 1934,

and hence was entitled to overtime compensation for services in excess of 40 hours a week because his compensation was set by a wage board or other wage-fixing authority, even though he was employed and paid upon a monthly basis. We submit that in so holding the court below has construed the Act in a manner inconsistent with its background and purpose, its legislative history, and the uninterrupted administrative practice under it. We further submit that the method employed by the court below to ascertain the daily base-pay rate, upon which overtime compensation was computed, was improper and in conflict with the provisions of the Act of June 30, 1906, *supra*, pp. 3–4.

(1) *Section 23 of the Act of March 28, 1934, does not apply to employees whose compensation is fixed on a monthly or annual basis.*—(a) Title II of the Act of March 28, 1934 (the Independent Offices Appropriation Act, 1935) amended various "economy" statutes which had reduced the salaries of Federal employees. Section 23 of the 1934 Act (*supra*, pp. 2–3) requires that the "weekly compensation" set by wage boards for the several trades and occupations, minus any general percentage reduction prescribed by Congress, "shall be reestablished and maintained at rates not lower than necessary to restore the full weekly earnings of such employees in accordance with the full-time weekly earnings" under wage

schedules in effect on June 1, 1932. The proviso to Section 23 prescribes a regular work week of not more than 40 hours, and requires that compensation be paid for overtime "at the rate of not less than time and one half."

The term "weekly compensation" has been employed by Congress only in relation to Government employees who are paid by the hour or the day. Cf. Section 101 (a) of the Act of June 30, 1932, 47 Stat. 399; the Act of June 26, 1936, 49 Stat. 1969. The weekly compensation of such employees is of course readily ascertainable, but the compensation of monthly and annual employees is not calculated on a weekly basis; and there is no statutory authority to do so. 12 Comp. Gen. 11, 14; 12 Comp. Gen. 204, 206; cf. Comp. Gen. B–40532, March 18, 1944. The Act of June 30, 1906 (*supra*, pp. 3–4) prescribes the method by which the daily compensation of a monthly or per annum employee is to be calculated, but there is no statutory procedure for determining a uniform weekly rate for such employees.[2] This

[2] Indeed, the 1906 Act prescribes a method of determining a daily rate which would not permit of accurate determination of a weekly rate. In his opinion of March 18, 1944, to the Secretary of War (B–40532), the Comptroller General ruled that there is no authority for calculating the pay of a monthly or annual employee on a weekly basis. He stated:

"To determine the daily rate of a per annum salary of War Department employees there is no authority under existing law to divide the annual salary on any basis other than that specifically provided by the act of June 30, 1906, 34 Stat. 763 (5 U. S. Code 84), that is, into 12 equal installments, one of

would indicate that the draftsmen of Section 23 did not intend that its provisions should apply to annual or monthly employees.

The demarcation established by Congress between hourly and daily employees, on the one hand, and monthly and annual employees, on the other, is wholly reasonable and not without legislative precedent. Hourly and daily employees customarily receive extra compensation for overtime services, while annual and monthly employees do

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which shall be the pay for each calendar month, each of the 12 installments (or monthly compensation) to be divided by 30 to determine the daily rate, or a division of the annual rate by 360 to determine the daily rate. There is no authority of law to compute and to make payments for any fractional part of each calendar month of the year regardless of the number of days therein—whether such payments be made weekly or biweekly—on any basis other than that specifically prescribed by said statute. Hence, the annual rate may not be divided into 52 equal installments. Neither may adjustments be made at the end of the year, nor may the annual salary be divided by 365 (or 366) to determine the daily rate. The amount of each week's compensation depends upon the number of calendar days (of the year) in the week for which a day's compensation (1/360) of the annual rate is payable, the thirtieth and thirty-first of a 31-day month to be regarded as one day, February 28, in other than leap years, to be regarded as 3 days, and February 29, in leap years, to be regarded as 2 days. For instance, the pay for the week ending Saturday, March 4, 1944 (containing February 29) would differ from the pay for the week ending March 11, 1944. Likewise, the pay for the week ending Saturday April 1, 1944 (including March 31) would differ from the pay for the week ending April 8, 1944, as the pay for any week which includes the thirty-first day of a month would be less than the pay for any week that does not include the thirty-first day of a month."

not normally receive extra compensation for overtime. Act of March 15, 1898, c. 68, 30 Stat. 277, 316 (5 U. S. C. 29); Mayers, *The Federal Service*, pp. 519–521. This difference in treatment between the two classes of employees was recognized and established for the Panama Canal by Sections 11 and 12 of Executive Order No. 1888, promulgated on February 2, 1914.[2]

(b) The legislative history supports the construction of Section 23 as inapplicable to employees paid on an annual or monthly basis. As the court below observed (R. 18), this provision was the result of the testimony and efforts of N. P. Alifas, a representative of the Metal Trades' Department of the American Federation of Labor. At the Hearings before the Subcommittee of the Senate Committee on Appropriations on the bill which became the 1934 Act (H. R. 6663, 73d Cong.,

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[2] Section 11. Employees whose salaries are fixed on a monthly or annual basis will receive no pay for overtime work.

Section 12. Employees above the grade of laborer, appointed with rates of pay per hour or per day, will not be employed over eight hours in any one calendar day, except in case of emergency. The time such employees work over eight hours in one calendar day, and time worked on Sundays and regularly authorized holidays, including January 1st, February 22d, May 30th, July 4th, Labor Day, Thanksgiving Day, and December 25th, shall be considered overtime for which time and one-half will be allowed. Such employees who work on the days prior and subsequent to the holidays specifically named above will be allowed their regular pay for eight hours for such days, in addition to pay for any work performed.

2d Sess., pp. 59–61), Mr. Alifas pointed out that while the Economy Act of 1933 imposed a 15% cut upon the compensation of all Federal employees, per diem and hourly employees were having their compensation still further reduced by being furloughed without pay on certain days.[4] He also stressed the fact that per diem and hourly employees had been discharged during the life of the Economy Act of 1933, due "to lack of work and lack of funds," and that upon being reemployed they were paid at a lower rate of pay than they had been receiving. To remedy this claimed discrimination against per diem and hourly employees, he proposed an amendment essentially similar to that which ultimately emerged as Section 23 (see Appendix A, *infra*, pp. 21–25).

The body of Section 23 requires the reestablishment of weekly earnings as of June 1, 1932; the proviso prescribes a 40-hour week with "time-

[4] Section 101 (a) and (b) of the Act of June 30, 1932, provided a regular schedule for reduction of the salaries of employees. Subsection (a) provided that the work of a per diem officer or employee should not exceed 5 days in one week, for which he should be paid $^{10}/_{11}$ of that payable for a week's work of 5½ days. Subsection (b) provided that each officer or employee receiving compensation on an annual basis should be furloughed without compensation for one calendar month. Section 3 of Title II of the Act of March 20, 1933, 48 Stat. 8, 13 (the Economy Act of 1933), provided that in lieu of furloughs without pay there should be substituted a general pay reduction not to exceed 15%. The percentage reductions were gradually reduced until they were abolished in 1935.

and one half" for overtime. Although the legislative history is silent as to the specific reason for the proviso, it discloses that one purpose of Section 23 was "to reduce hours and increase purchasing power," and an analogy was drawn between Section 23 and the N. R. A.—a comparison which would suggest that the benefits were intended only for employees paid on an hourly basis.[5] The requirement of extra compensation was in effect a means of preventing an increase in the work week.[6] At the committee hearings, it was noted also that the compensation of annual employees was not being subjected to similar reductions through furloughs and the like. It may reasonably be assumed,

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[5] The American Federation of Labor representative urged that Congress adopt a policy toward these per diem employees which would be "in conformity with the policy of our Government under the N. R. A., to reduce hours and increase purchasing power." See Appendix A, *infra*, pp. 24–25. In debate on the bill, Senator Cutting also stated that the bill was designed to do "in effect what the N. R. A. is trying to do, to pay the same amount of wages for shorter periods of labor" (78 Cong. Rec. 5574, 73d Cong., 2d Sess.). It has been held that the N. I. R. A. was not designed to increase the compensation of employees "on a straight salary basis," but only of those employees "on an hourly basis." *Steel Products Engineering Co.* v. *United States*, 90 C. Cls. 513, 517.

[6] The proposed amendment submitted by the A. F. of L. representative provided that the reestablishment of wages as of June 1, 1932, was to be "without increasing the present hours of service"—which under the Economy Act of 1933 was a 40-hour week (see Appendix A, *infra*, p. 24).

therefore, that Congress did not intend to provide overtime compensation for employees who were not deemed to need the benefits of Section 23 and who would not be entitled to receive them. Since "the general purpose of the section may be taken into account" in construing the proviso (see *McDonald* v. *United States*, 279 U. S. 12, 22), the scope of that proviso should be regarded as coextensive with that of Section 23, as the court below indeed assumed (see R. 14–27).[7] This conclusion is fortified by the absence of any indication at the committee hearings, in the committee reports, or in the debates, that any legislator believed that under Section 23 overtime compensation was to be accorded to monthly or annual employees, contrary to the long-standing policy followed by Congress in compensating such employees.

(c) The well-established administrative practice is likewise in accord with the construction for which we contend. At least as early as 1883,

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[7] The court's statement that the Governor of the Canal met the economy problem by increasing the hours of those monthly employees who were retained on the roll (R. 20) is without support in the record. Long before the economy legislation, the monthly employees of the Canal had a work week of 48 hours or more. But in computing their monthly salary, consideration was given to this fact. Moreover, their compensation was 25% greater than that paid in continental United States, and their leave privileges—26 days' annual leave, 30 days' cumulative leave and 7 days' travel leave, a total of 63 days—more than offset the extra working time.

Congress provided that annual employees of the executive departments of the Government were not entitled to extra compensation for services rendered in excess of the hours fixed by statute. Act of March 3, 1883, c. 128, 22 Stat. 531, 563; continued by the Act of March 15, 1898, c. 68, sec. 7, 30 Stat. 277, 316 (5 U. S. C. 29). It has consistently been held since that time that annual employees are not entitled to overtime pay for extra work in the absence of a statute specifically providing for extra compensation. 15 Comp. Dec. 620; 25 Comp. Dec. 359; 15 Comp. Gen. 937, 938. And the Comptroller General has repeatedly held that Section 23 is not the type of specific legislation which authorizes payment of overtime to annual and monthly employees. 13 Comp. Gen. 265, 270; 13 Comp. Gen. 277, 280; 14 Comp. Gen. 156, 164. In keeping with these rulings, respondent was at all times employed on the schedule which had been in effect long prior to the enactment of Section 23—a 48-hour week consisting of 6 days of 8 hours each, without additional compensation for the hours in excess of 40 per week. Other Government agencies have also consistently followed the practice of not paying overtime to annual or monthly employees for services in excess of 40 hours per week (see Appendix B, *infra*, pp. 27–31).[8]

[8] On its first motion for a new trial below, the United States submitted certain letters disclosing that the administrative practice of the War and Navy Departments had always been to pay no overtime to monthly or annual em-

(d) This administrative practice was open and well-known, and hence presumably was known to Congress (*Copper Queen Mining Co.* v. *Arizona Board*, 206 U. S. 474, 479; *United States* v. *G. Falk & Brother*, 204 U. S. 143, 150, 152). It was more specifically brought to the attention of Congress in connection with legislation which culminated in the Act of July 9, 1937 (50 Stat. 486), reaffirming the President's authority to fix salary, hours, and other conditions of employment for employees of the Panama Canal. During the consideration of the 1937 Act in Congress, the Canal authorities objected to the proposed incorporation of Section 23 of the 1934 Act. They wrote to the Senate Committee considering the legislation, and noted that Section 23 affected a "special group of employees," only "some 900 out of about 3,000 American employees of Canal." See Appendix C, *infra*, pp. 32–37. With this information before it, Congress inserted in the 1937 Act a

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ployees. The court below commented that neither letter showed that employees had in fact been worked overtime and accordingly declined to consider the matter. Subsequent to the denial of the motion, additional inquiries were directed to the Government Printing Office, the Bureau of Engraving and Printing, the War Department and the Navy Department. Their responses disclosed that monthly and annual employees had been worked in excess of 40 hours a week and that overtime had never been paid them. The United States then filed a second motion for a new trial, submitting these letters with its motion, but the motion was overruled on the same day.

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proviso that nothing contained therein "shall affect the application to employees of the Panama Canal of the provisions of section 23" of the 1934 Act. See 50 Stat. 487. Since Congress could hardly have intended to change the administrative construction "by repeating the very words construed" (*United States* v. *G. Falk & Brother*, 204 U. S. 143, 150), this may fairly be taken as Congressional ratification of the administrative practice.

Subsequent legislation even more clearly affirmed the administrative interpretation of Section 23. Commencing in 1936, a series of overtime acts were adopted which culminated in the War Overtime Pay Act of May 7, 1943 (Public No. 49, 78th Cong., 1st Sess., approved May 7, 1943). The earlier of these enactments merely provided for overtime compensation to annual and monthly employees, both within and without the Classification Act of 1923, including those whose compensation was fixed by a wage-fixing authority (see Appendix D, pp. 38–43). The later statutes (Joint Resolution of December 22, 1942, and the War Overtime Pay Act of 1943) specifically provided overtime compensation for persons "whose wages are fixed on a monthly or yearly basis and adjusted from time to time in accordance with prevailing rates by wage boards", and with equal explicitness excepted from the operation of the overtime provision "employees whose wages are fixed on a daily or hourly basis and adjusted from

time to time in accordance with prevailing rates by wage boards". See Appendix D, *infra*, pp. 44–45. The legislative history shows that this exclusion was based upon the understanding of Congress that overtime compensation for the latter class was already provided for (by Section 23 of the Act of March 28, 1934), but was not yet provided for with respect to monthly and annual employees. See Appendix D, *infra*, pp. 38–45.

Such "subsequent legislation may be considered to assist in the interpretation of prior legislation upon the same subject." *Great Northern Ry. Co.* v. *United States*, 315 U. S. 262, 277; *Tiger* v. *Western Investment Co.*, 221 U. S. 286, 309; cf. *United States* v. *Hutcheson*, 312 U. S. 219. For when Congress, acting over a period of years, passes a series of statutes dealing with the same subject matter, the acts are to be construed in their historic setting as segments of an integrated whole. Viewed from this perspective, a statute derives meaning from later as well as earlier enactments. Many provisions of the overtime statutes enacted between 1936 and 1943 become virtually meaningless if Section 23 of the 1934 Act is to be construed as having already provided overtime compensation for monthly and annual employees whose salary was fixed by a wage board.[9]

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[9] Both the Joint Resolution of December 22, 1942, and the War Overtime Pay Act of 1943 fix overtime pay for monthly and annual employees by computing the daily rate as 1/360

(2) *The method of computing overtime compensation employed by the court below was incorrect.*—Assuming that respondent was entitled to overtime pay for services in excess of 40 hours a week, we submit that the method used by the court below to compute respondent's daily pay was incorrect. The court multiplied respondent's monthly salary by 12 and divided the product by 52 to determine his salary for a 40-hour week; then divided his weekly salary by 5 to ascertain his daily pay for an 8-hour day. (One and one-half times this daily pay then represented one day's overtime compensation.) There is admittedly no statutory authorization for this system of computation. The Government contended below, citing settled administrative practice and the Emergency and War Overtime Acts (Appendix D, *infra*, pp. 44–45), that the proper manner of

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of the employee's annual pay. This formula is substantially less advantageous to the employee than that provided in Section 23 of the 1934 Act. The resulting discrimination between monthly and annual employees under the 1943 Act and per diem and hourly employees under Section 23 of the 1934 Act was called to the attention of Congress but nevertheless adopted despite efforts to amend the bill to provide overtime payment for all on the more liberal basis. See Appendix D, *infra*, p. 45. If the monthly and annual employees expressly included in the 1943 Act already were entitled to overtime pay under the more liberal provisions of Section 23 of the 1934 Act, they would have been excluded from the 1943 Act together with the per diem and hourly employees who are admittedly entitled to overtime pay under Section 23.

computing the daily pay for monthly or annual employees was to divide their monthly pay by 30. The court below rejected this mode of computation on the ground that a statutory method of overtime enacted in 1940 should not control compensation under a 1934 statute. In so holding the court failed to observe the administrative practice, and failed to construe the overtime statutes as being in *pari materia*.

The decision below also does not give effect to the Act of June 30, 1906, *supra*, pp. 3–4. While not called to the attention of the court below, that Act renders the method of computation adopted below clearly erroneous. The 1906 Act expressly provides that where the compensation of a Federal employee is on a monthly basis, his daily pay is to be ascertained by dividing the monthly pay by 30. See *supra*, p. 3; 20 Comp. Dec. 772. The method of calculation followed by the court below resulted in a daily salary rate more than one-third higher than the rate derived from the proper mode of computation.

(3) *The question is one of importance.*—The decision below, if allowed to stand, will impose a considerable [redacted] financial and litigation burden upon the Government. Almost a hundred cases have already been filed with the court below by employees of the Panama Canal, seeking a total recovery which under the decision below would approximate almost a million dollars. We are

advised by the Panama Canal authorities that over a thousand additional claims involving many millions of dollars will likely be filed. Moreover, the implications of the decision below extend to monthly and annual employees of the War and Navy Departments, the Bureau of Engraving and Printing and the Government Printing Office whose compensation is fixed by wage boards but who have been required to work in excess of 40 hours a week without receiving overtime compensation. See Appendix B, *infra*, pp. 27–31.

In view of the substantial doubts as to the correctness of the decision below, as well as its manifest importance, we submit that the question warrants review by this Court.

CONCLUSION

For the reasons stated, it is respectfully submitted that this petition should be granted.

CHARLES FAHY,
Solicitor General.

JUNE 1944.

APPENDIX A

Hearings Before the Subcommittee of the Senate Committee on Appropriations, on H. R. 6663 (73rd Cong., 2d Sess.), pp. 59–61. [All italics supplied.]

JANUARY 17, 1934.

Statement submitted by N. P. Alifas, President District No. 44, International Association of Machinists, and representing the Metal Trades' Department of the American Federation of Labor.

On behalf of the 75,000 or more *per diem mechanics and workmen* employed at the navy yards, arsenals, *the Panama Canal Zone,* and numerous other divisions of the Federal service, whose wages are set by wage boards or similar wage-fixing authorities, I desire to urge your committee to eliminate from the economy section of the independent offices appropriation bill now under consideration all items which reduce the pay of *these employees;* and to repeal all those sections of current economy legislation which reduces pay.

Among the items referred to, are the 15-percent congressional cut which expires on June 30, 1934; the prohibition against automatic and administrative promotions which seriously adversely affect our apprentices and employees who have been reemployed at the same trade at lower rates of pay; and furloughs.

In addition to the loss of the 15-percent congressional cut, the navy-yard employees in particular have had their hours reduced

to an average of 40 per week, by making every alternate Monday a nonwork day without pay. *This furlough* has practically become the permanent policy of the Navy Department, and *results in a permanent reduction of over 22 percent in the base pay of these employees.*

During the life of the current economy legislation, thousands of mechanics and workmen who received the first-class rate of pay, were discharged due to lack of work and lack of funds, and upon being reemployed, were accorded only the second- or third-class rate. In many trades approximately one-third of the men were returned to work at the third-class rate, *which in the case of a mechanic whose base rate is 88 cents per hour, results for that class of workmen in a total reduction in pay of 30.9 percent, while other divisions of the Federal service were suffering only a reduction of 15 percent.*

During the last session of the Seventy-second Congress, President Hoover recommended the reconvening of wage boards with the understanding that mechanics and other workmen coming under them should be reduced 30 percent. Congress declined, and very properly, to cut these employees to any greater extent than the cut imposed on other employees.

During the last session of the present Congress this group of employees was again saved by Congress from a more serious cut than others sustained; and they were limited to 15 percent, the same as others.

Notwithstanding this determined attitude upon the part of Congress to place all Government employees, officers, and officials *upon an equality as to pay cuts, administrative measures* have since then been taken

to *impose an additional 7-percent cut on all navy-yard employees by cutting the hours without a corresponding increase in pay,* and an additional 15.9 percent cut to a very large proportion of them, by reemploying them at lower rates of pay.

In addition to these more or less permanent reductions in pay for per diem employees, thousands of them have been furloughed without pay for protracted periods; and in some instances they have been furloughed for one-third of the time for an entire year, involving a reduction in pay of 43 percent.

In the navy-yard service a splendid 4-year apprenticeship system exists. Each apprentice is required to pass an examination annually for the purpose of disclosing his increased knowledge of the trade and his progress in the apprenticeship school. If he passes the examination, he is advanced to a higher grade, and his pay is increased. The economy law, prohibiting promotions, has barred these apprentices from just compensation as workmen. This should be restored to them.

In like manner, under our efficiency system, employees are presumed to be promoted to higher rates of pay in accordance with their improved efficiency. This, too, has been elimnated by the prohibition against administrative promotions.

In the event your committee decides to eliminate the entire 15-percent pay cut, it is respectfully suggested that language be inserted in lieu of what is now carried in the bill *which will protect these employees against wage cuts by wage boards* which, it is presumed, will be immediately convened in the event Congress eliminates the pay cut.

The following language we believe would serve this purpose:

"*Provided*, That the rates of compensation for the several trades and occupations, which are set by wage boards or other wage-fixing authorities, shall be reestablished and maintained at rates not lower than the respective wage schedules in effect on June 1, 1932; and that the Navy Department and other departments and independent establishments of the Government are hereby directed to restore to employees any reduction in pay which they have received since June 30, 1932, in addition to the 15 percent congressional cut, without increasing the present hours of service; and that the respective departments and independent offices are hereby authorized to incur such deficiencies as may be necessary to put this provision into effect."

It will be noted that the proposed amendment above quoted, establishes the present basic-wage schedules as the minimum, making it possible for wage boards to grant increases beyond this point. This feature does not give these employees any special advantage above what they have had heretofore. We feel that the administrative officials of the departments, in conformity with their past practices, will not be more generous than the law required. While in some divisions of the service, administrative officials grant increases to the limit of their authority, this does not appear to be true in our division of the service, which we maintain requires protection only against unfair administrative reductions in pay.

In view of the prospective increase in the cost of living, and in conformity with the policy of our Government under the

N. R. A., to reduce hours and increase purchasing power, we respectfully submit that the request here made is exceedingly moderate. The fear we entertain that wage boards, if convened, will cut wages is by no means based upon the belief that such reduction in pay would be justified; but such economies we fear are likely to be effected as means by which departments may balance their budget, by subjecting these mechanics and laborers to sustain the burden of such economies.

In a general way, it might be said that all wages and salaries of Government employees and officials were originally based upon the approximate pay which such individuals would receive in private life. *Unfortunately, the wage boards under the law would be compelled to put any reduction in the prevailing rate into effect for the per diem employees;* while at the same time, it might be found that a similar reduction in pay in private industry would be shown for other salaried officers and employees, if they were subjected to a wage survey. *In view of the fact that Congress has decided that other officials, officers, and employees should be treated alike in the matter of wage cuts and, we hope, in the matter of wage restoration, there is no good reason why a special group of employees, the per diem employees in this instance, should be subjected to any greater cut or any greater limitation in restoration of their pay than other officials, officers, and employees of the Government.*

We trust that your committee will keep the interests of these highly skilled mechanics and workers in mind, in reaching your decision regarding the economy features of the bill.

The Senate Committee on Appropriations reported H. R. 6663 on February 12, 1934, without the amendment suggested by the American Federation of Labor (S. Rept. No. 294, 73d Cong., 2d Sess.). However, on February 21, 1934, Senator Thomas of Oklahoma successfully offered an amendment to the bill on the floor of the Senate, and this amendment became Section 23 without change. 78 Cong. Rec. 2977 (73d Cong., 2d Sess.). In sponsoring his amendment, Senator Thomas made a statement which was very similar to that submitted at the hearings on the bill by the American Federation of Labor representative (78 Cong. Rec. 2977):

> Mr. Thomas of Oklahoma. Mr. President, this amendment is offered to help the employees in the navy yards, the arsenals, the Panama Canal Zone, the Government Printing Office, and the Bureau of Engraving and Printing. It simply proposes to put them back on the same status they occupied in July of 1932.
>
> * * * * *
>
> Mr. Thomas of Oklahoma. Mr. President, the amendment adopted this afternoon restores their pay cut, it is true, provided that amendment remains in the law. This amendment proposes to give the employees of these several bureaus an increase in their pay even though they do not have to work an increased number of hours. At the present time they work 40 hours and get 44 hours' pay. Under the amendment it is possible that the board that has control of these employees will let them work 40 hours and they will possibly get 48 hours' pay, provided they get an increase of their hourly pay.

APPENDIX B

UNITED STATES GOVERNMENT PRINTING OFFICE,
Washington 25, D. C., March 22, 1944.

The ATTORNEY GENERAL,
Department of Justice,
Washington 25, D. C.

DEAR SIR: There has been received your letter dated March 20, 1944, (File—FMS:JRW C. Cls. #45097) in which desire is expressed for this office to furnish information in reply to questions stated.

The questions are answered in the order presented as follows:

(1) The Government Printing Office has employees hired and paid on an annual basis whose compensation is fixed by wage boards or other wage fixing authorities since March 28, 1934.

(2) Such employees have been directed to work and have worked in excess of 40 hours per week since the effective date of the statute.

(3) Such employees have not been paid overtime compensation for work in excess of 40 hours per week pursuant of the provisions of the statute that "All overtime should be compensated for at the rate of not less than time and one-half". The reason for such action is contained in a decision of the Comptroller General of the United States (13 CG 265) which states in part, that employees paid on an annual

basis who may be required to work more than 40 hours per week are not entitled to overtime.

Very truly yours,

A. E. GIEGENGACK,
Public Printer.

By (Signed) F. E. CRISTOFANE,
Comptroller.

TREASURY DEPARTMENT,
BUREAU OF ENGRAVING AND PRINTING,
Washington 25, D. C., March 22, 1944.

Honorable FRANCIS M. SHEA,
Assistant Attorney General,
Washington 25, D. C.

MY DEAR MR. SHEA: Receipt is acknowledged of your letter of March 20, 1944, regarding the matter of overtime pay for work in excess of 40 hours per week with respect to employees paid on a monthly or annual basis whose compensation is fixed by wage boards or other wage-fixing authorities.

In reply to the questions contained in your letter, you are advised that this bureau had on March 28, 1934, and until August 1, 1942, a number of employees in the service whose compensation was fixed by a wage-fixing authority and who were paid on an annual basis. Some of these employees were, on occasion, required to work more than 40 hours per week. However, in no instance were any of these per annum employees paid time-and-a-half for such overtime.

Very truly yours,

(Signed) A. W. HALL,
Director.

NAVY DEPARTMENT,
Washington, D. C., April 4, 1944.

CHIEF OF OFFICE,
Panama Canal, Washington, D. C.

DEAR SIR: Reference is made to your letter of March 21, 1944, requesting that you be advised whether or not civilian employees of the Navy Department whose wages are fixed by "wage boards or other wage-fixing authorities" on a monthly or per annum basis have been required to work in excess of forty hours per week after the date of the enactment of Section 23 of the Independent Offices Appropriation Act of 1935 (March 28, 1934), and if so, whether any overtime compensation has been paid to such employees under the provisions of that section.

The civilian employees of the Navy Department referred to above have been required to work in excess of forty hours per week after the date of the enactment of the cited statute and no overtime compensation has been paid to such employees under the provisions of that statute.

Very sincerely,

RALPH A. BARD.

WAR DEPARTMENT,
Washington, April 8, 1944.

MR. B. F. BURDICK,
Chief of Office, The Panama Canal,
Washington 25, D. C.

DEAR MR. BURDICK: This is in reply to your letter of March 21, 1944, in which you request additional information regarding the payment of overtime compensation to monthly and per annum employees under the Act of March 29, 1934.

In view of the fact that your office has indicated a desire for an early reply in this matter, it has not been possible to gather complete and adequate information from the operating elements of the War Department. It can be stated, however, that this Department has never adopted the practice of paying overtime compensation under the 1934 law to any employees other than those paid on a daily or hourly basis. It is also true that employees paid on a per annum or monthly basis whose rates of compensation were not fixed in accordance with the Classification Act of 1923, as amended, have been required to work in excess of 40 hours per week. In the period immediately preceding the entry of the United States into the present war, it was a general practice to require ungraded employees, not covered by the Act of March 28, 1934, to work five and one-half days per week or a total of 44 hours per week. Effective January 9, 1942, the Department adopted a 48 hour week and ungraded employees paid on a per annum basis have, since that date, worked six eight-hour days.

In this connection, however, it is felt that a consideration is involved which was not brought out in the decision of the Court of Claims to which you refer. Although this Department was, of course, influenced by the decision of the Comptroller General, holding that per annum employees were not entitled to overtime under the law in question, the further matter of wage board procedure was also involved. In a number of instances, the Comptroller held that the wage fixing procedure followed by the Air Corps, the Engi-

neer Department, and other elements of this Department did not meet the statutory requirement of "wage boards or other wage-fixing authorities" (see Comp. Gen. 486; 14 *id.* 552). In view of the above, it would appear that the War Department is in a different position from your organization with respect to the decision in the *Townsley* case, inasmuch as the wage fixing practice has been held not to meet the statutory requirement. It was not until the early part of 1943 that a general and formal wage board procedure was adopted for ungraded employees as a whole.

If the Department can be of further assistance to you in securing more detailed and specific data from the Forces and Technical Services, please be assured of our complete willingness to do so.

Sincerely yours,

(Signed) JOHN W. MARTYN,
Administrative Assistant.

APPENDIX C

THE PANAMA CANAL,
WASHINGTON OFFICE,
Washington, June 11, 1935.

Honorable THOMAS P. GORE,
Chairman, Committee on Interoceanic Canals,
United States Senate,
Washington, D. C.

MY DEAR SENATOR GORE: Governor Schley has informed this office by radio that he has learned that effort may be made to secure an amendment to Section 2 of bill H. R. 6719 "To amend the Canal Zone Code", which would have the effect of incorporating into the Canal Zone Code the 40-hour week provision of the so-called Thomas amendment to the Independent Offices Appropriation Act for 1935 (48 Stat. 522).

The Governor is very much opposed to any such amendment to the bill as it passed the House for the reason, as he states, such an amendment would place a wholly inconsistent restriction on the general power of the President to fix the conditions of employment for all employees of The Panama Canal by granting entirely unjustified treatment to a certain group of employees which would be highly discriminatory.

The following explanation of the purpose of Section 2 of H. R. 6719, and the reasons why it is considered undesirable to permit the making of any amendment thereto, are stated in a letter

which the Governor sent to Congressman Bland, Chairman of the Committee on Merchant Marine and Fisheries of the House, as follows:

> The purpose of section 2 of H. R. 6719 is to confirm the general authority which has always been exercised by the President in the matter of fixing the salaries and conditions of employment of the personnel of the Canal organization within the limits prescribed by Congress. The proposed legislation was made necessary by a recent ruling of the Comptroller General denying the power of the President, in the absence of specific statutory authority, to establish rules governing the commutation of leave of certain employees. The proposed section is designed to cover specifically all those matters relating to conditions of employment with respect to which it may fairly be assumed that the Comptroller General might rule similarly.
>
> It is my opinion that it would be entirely inconsistent in confirming the general authority of the President for fixing the conditions of employment of Canal personnel to impose such a restrictive provision as that embodied in the Thomas Amendment. Particularly does this seem to be true when it is considered that the Thomas Amendment is general legislation of the United States which is not applicable to American employees of the Canal generally and affects only a certain number of employees in particular groups solely by reason of a ruling to that effect by the Comptroller General. Furthermore, it freezes the salaries as well as the hours of work of the particular employees to which it applies, which is of course inconsistent with the general purpose of the proposed legislation.

It should be noted that the enactment of section 2 of H. R. 6719 will not revoke the provisions of the Thomas Amendment. It will, however, leave it within the discretion of the President to determine the working hours of all employees of The Panama Canal; and the President might, if he so desired, establish a 40-, 44-, or 48-hour week for all employees of The Panama Canal if he considers it advisable to do so. In the absence of affirmative action by the President, however, no changes in working hours would be made. It is important that the hours of work among the several classes of Americans on the Canal Zone be coordinated and that of course can best be done here where all conditions are known, but it is more important that general legislation for the United States be applied only with great care to the Panama Canal because of the many special conditions of employment here. For instance, the limitation to 40 hours of work per week has been extended to men here who already had very generous annual vacation allowances necessary in this climate to permit trips to a temperate climate for recuperation, with the result that our 40-hour men work only about 1,717 hours per year on the average as compared to 1,857 hours for Government men enjoying the 40-hour week in the United States.

It is very desirable to have this bill passed before July 1st, which is the date beyond which the Comptroller General has stated he is not willing to permit the making of commuted leave payments without additional legislative authority.

In his radio of this date the Governor requested th. office "to endeavor to persuade Senator Gore to secure most expeditious consideration of bill." Early action on this bill is very much desired. There are no controversial matters contained in the bill and its purposes are fully explained in House Report No. 744.

Very respectfully,

A. L. FLINT,
Chief of Office.

THE PANAMA CANAL,
WASHINGTON OFFICE,
Washington, April 16, 1936.

Honorable F. RYAN DUFFY,
United States Senate, Washington, D. C.

MY DEAR SENATOR DUFFY: Supplementing the radiogram of April 13, 1936, from the Governor of The Panama Canal, relative to H. R. 6719, to amend the Canal Zone Code, quoted in my letter to you under date of April 14, 1936, there is quoted below another radiogram from the Governor, dated April 15, 1936, on this subject, which the Governor has requested be transmitted to you:

> Delegation from Panama Metal Trades Council called on me yesterday and requested assurance that Section 2 of H. R. 6719 if enacted would not be interpreted by me as having adverse effect on continuance of 40-hour week for mechanical trades which was brought about by application of so-called Thomas Amendment, Section 23 of Independent Offices Act of 1935,

to some 900 out of about 3,000 American employees of Canal.

Delegation was informed that I could not at this time commit Canal Administration concerning administrative questions which might arise if Bland Bill were enacted but that the long record of successive Canal administrations for fair dealing in employee relations should make it unnecessary for Governor to state specifically what action would be taken in particular contingencies which might arise in future. General policy has been and will continue to be to take generous view with reference to justifiable special employment privileges as necessary compensation for special conditions arising out of service in tropics with Panama Canal. Fixed policy also is to keep abreast of policies of national administration in all matters relating to improved employment conditions for Government workers.

Meeting of Metal Trades Council last night decided to send Wahl as legislative representative to Washington to secure amendment to H. R. 6719 which would have effect of incorporating Thomas Amendment in Canal Zone Code. If desired amendment cannot be secured it is intimated that efforts will be made by Metal Trades to defeat consideration of bill in present session.

Section 2 of the bill was drafted at my direction after the Comptroller General had held that accumulated leave of Canal employees might not be commuted into cash after June 30th, 1935 and unusual efforts were made by me to secure the enactment of this provision prior to July 1st, 1935 so that no employees whose services were terminated might be deprived of privilege of

having his leave commuted into cash. The section was drafted in broad terms so that there would remain no doubt of the validity of other regulations of the President granting important privileges to Canal employees because of service in tropics.

I should consider it most unfortunate if the application of the Thomas Amendment to a selected group of Canal employees should be incorporated in the bill as an amendment to section of Canal Zone Code which is designed to apply to all employees. The authority with which H. R. 6719 vests the President is precisely the authority which has continuously been exercised by him since 1903 and it would be wholly inconsistent to restrict the exercise of this authority as to a special group of employees.

I desire to emphasize that Section 2 of H. R. 6719 will not revoke the provisions of the Thomas Amendment, which is a general law not specifically made applicable to the Canal Zone. Thomas Amendment, regardless of regulations which may be made by President for Canal Zone, will remain in effect in United States and establish conditions of employment for certain Government workers there which will be reflected in conditions of employment prescribed for similar employees of Panama Canal.

Very truly yours,

A. L. FLINT,
Chief of Office.

APPENDIX D

(All Italics Supplied)

1. Act of June 26, 1936.

The Act of June 26, 1936 amended section 23 of the Act of March 28, 1934, by extending the benefit of a 40-hour week to employees who were hired and paid on a hourly or per diem basis under the Classification Act of 1923.

The Bureau of Engraving and Printing was the moving force behind the 1936 Amendment, and pointed out to the House Committee on the Civil Service that section 23 of the Act of March 28, 1934, provided a 40-hour week for employees engaged in mechanical trades who were not covered by the Classification Act of 1923. Hence, such employees were working only 40 hours per week, while other hourly employees covered by the Classification Act of 1923 were working 44 hours per week in accordance with applicable Federal statutes. In order to authorize a 40-hour week for the latter group of employees, while maintaining their weekly compensation, Act of June 26, 1936 (49 Stat. 1969) was enacted, granting authority "to adjust the *hourly rates of compensation* of employees whose compensation is fixed under the Classification Act of 1923, as amended, to such extent as may be necessary to make the aggregate compensation for a forty-hour week equal to the compensation for a full-time week prior to March 28, 1934."

The House Committee explained the purpose of this amendment as follows (H. Rept. No. 2827, 74th Cong., 2d Sess., pp. 1–2):

> Section 23 of the Independent Offices Appropriation Act, 1935, provided a 40-hour week for employees of the Bureau of Engraving and Printing engaged in mechanical trades. This affected 780 of the 4,203 employees, giving them a full week's pay for 40 working hours while the remainder, numbering 3,423, continued to be required to work 44 hours.
>
> This situation constitutes a very difficult administrative problem for the Bureau of Engraving and Printing, making it necessary to continue to operate on a 44-hour week basis and requiring that the working hours for members of the trades be staggered.
>
> The committee feels that in view of the granting of a 40-hour week to the employees engaged in the trades, and the further fact that Congress has extended the 40-hour week to postal employees and others, it is only fair to give the Secretary of the Treasury authority to extend it to the other employees of the Bureau of Engraving and Printing.

2. Act of June 28, 1940.

Section 5 (a) of the Act of June 28, 1940 (54 Stat. 676, 678), which expired June 30, 1942 provided, *inter alia*, that:

> Notwithstanding the provisions of any other law, the regular working hours of the Navy Department and the Coast Guard and their field services shall be eight hours a day or forty hours per week during the period of the national emergency declared by the President on September 8, 1939, to

> exist: * * * *Provided further,* That compensation for employment in excess of forty hours in any administrative workweek computed at a rate not less than one and one-half times the regular rate *shall be paid only to monthly, per diem, hourly, and piece-work employees,* whose wages are set by the Act of July 16, 1862 (12 Stat. 587), as amended or modified; and also to professional and subprofessional employees and to [certain other employees] of the CAF service, as defined by the Classification Act of March 4, 1923 * * *: *Provided further,* That in determining the overtime compensation of per annum Government employees the pay for one day shall be considered to be one three-hundred-and-sixtieth of their respective per annum salaries: * * *.

In its report on the bill (H. R. 9822, 76th Cong., 3d Sess.), the Senate Committee on Naval Affairs stated (S. Rept. No. 1863, pp. 11–12):

> As to compensation, section 5 (a) * * * simply provides that with the establishment of a 40-hour workweek *all* employees in the Navy Department, the Coast Guard and their field services shall receive ***uniform*** treatment in the *payment of compensation for employment in excess of 40 hours* in any administrative work [sic] of 7 days. *In this regard, the provision for the payment of compensation to per annum and per month employees is a departure from the practice heretofore followed.* * * *

The House Committee on Naval Affairs made a similar point in its report on this bill (H. Rept. No. 2257, 76th Cong., 3d Sess., pp. 3–4):

> Overtime pay has heretofore not been allowed to any per annum employees of the Government, although overtime pay at time and one-half is allowed to per diem employees. * * *
>
> In order to calculate the amount of overtime pay for per annum employees it is necessary to specify in the act the corresponding daily pay. This has been done in accordance with long-standing Government custom by fixing it at one three-hundred-and-sixtieth of the annual salary on the customary basis of 12 months to a year and 30 days to a month.

3. *Act of October 21, 1940.*

The Act of October 21, 1940 (54 Stat. 1205), which expired June 30, 1942, provided that:

> * * * notwithstanding the provisions of any other law, compensation for employment in excess of forty hours in any administrative workweek computed at a rate not less than one and one-half times the regular rate is hereby authorized to be paid at such places and *to such monthly*, per diem, hourly, and piecework *employees of* the field services of the War Department and *the field services of the Panama Canal whose wages are set by wage boards or other wage fixing authorities*, and also to professional and subprofessional employees and to [certain other employees] of the CAF service, as defined by the Classification Act of March 4, 1943 * * * *as shall be designated from time to time by* the Secretary of War or *the Governor of the Panama Canal*, as the case may be, * * *: *Provided*, That in determining the overtime compensation

> of the foregoing per annum Government employees the pay for one day shall be considered to be one three-hundred-and-sixtieth of their respective per annum salaries.

The following was said during the debates in the Senate on S. 4208, the underlying bill (86 Cong. Rec. 13421, 76th Cong., 3d Sess.):

> Mr. Danaher. Mr. President, there is no objection whatever to the bill, so far as I now know. I should like to have some member of the committee, however, explain whether or not its provisions would supplement the provisions of other legislation in which we undertook to deal with prevailing rates of labor, and generally dealing with construction items of that sort in the Canal Zone.
>
> Mr. Thomas of Utah. Mr. President, I think the answer to that question is, "Yes," although the word "supplement" is hardly the right word. We have passed a measure providing for an 8-hour day and a 40-hour week for the ordinary workers in Government arsenals and those now doing defense work. Other workers are on an annual wage. In order to make the pay during this time consistent the Senate committee amendment is necessary.

In the House debates on S. 4208, Mr. Ramspeck, of the House Committee on the Civil Service, stated (86 Cong. Rec. 13557):

> The Secretary of War and the Assistant Secretary of War * * * say that they have the legal authority now to pay overtime to certain employees of the War Department in the arsenals and at the Panama

> Canal, but as to others they have not this authority and this creates a bad administrative situation. They have recommended this bill, which has passed the Senate, and it is my understanding we have given the same authority to the Navy Department as to the Navy yards.

4. Act of June 3, 1941.

By the Act of June 3, 1941 (55 Stat. 241), which also expired June 30, 1942, Congress authorized payment of overtime, computed at the rate of one three-hundred-and-sixtieth of the per annum salaries, to annual employees of the field services of the War Department, *the Panama Canal,* the Navy Department, and the Coast Guard engaged in work of the kind described in Section 5 (a) of the Act of June 28, 1940, *supra.*

Senator Reynolds introduced the bill (S. 1541, 77th Cong., 1st Sess.) and quoted from a letter of the War Department of May 19, 1941, as follows (87 Cong. Rec., pp. 4275–4276):

> The bill provides for overtime work in the Field Service of the War Department at the rate of time and one-half for per annum employees.
>
> The bill merely places them on the same basis that laborers and mechanics are now on.
>
> It also gives the War Department power to keep the Field Service employees at work during the time when they would otherwise be on vacation. * * *

See also, H. Rept. No. 593 (77th Cong., 1st Sess.) p. 1, to the same effect.

5. Joint Resolution of Dec. 22, 1942.

The Joint Resolution of December 22, 1942 (56 Stat. 1068, expiring April 30, 1943) provided overtime compensation for monthly and annual employees and excluded from its operation those employees "whose wages are fixed on a daily or hourly basis and adjusted from time to time in accordance with prevailing rates by wage boards or similar administrative authority serving the same purpose".

The Senate Report on this measure stated (S. Rept. No. 1847 on S. J. Res. 170, 77th Cong., 2d Sess., pp. 2–3):

> The joint resolution provides for the extension until April 30, 1943, of the laws authorizing the payment of overtime compensation to per annum employees in the War and Navy Departments, and for the extension of such authority to cover other employees of the Government. *The joint resolution will not affect employees whose compensation is based upon hourly rates fixed and adjusted by wage boards or similar administrative* * * *.
>
> *The overtime compensation payable under the joint resolution* would be computed at the rate of one and one-half times an employee's regular basic rate. For the purposes of such computation the basic rate for 1 day *will be considered to be one three-hundred-and-sixtieth of so much of an employee's annual salary as does not exceed $2,900 per annum.* * * *

6. War Overtime Pay Act of 1943.

Section 1 of the War Overtime Pay Act of 1943 (Pub. No. 49, 78th Cong., 1st Sess., approved May 7, 1943) provides:

> That this Act *shall apply to all civilian officers and employees (including officers and employees whose wages are fixed on a monthly or yearly basis and adjusted from time to time in accordance with prevailing rates by wage boards or similar administrative authority serving the same purpose,* except those in or under the Government Printing Office or the Tennessee Valley Authority) * * * except that this Act *shall not apply to* * * * (c) *employees whose wages are fixed on a daily or hourly basis and adjusted from time to time in accordance with prevailing rates by wage boards or similar administrative authority serving the same purpose;* * * *.

During the consideration of H. R. 1860, the bill which became the 1943 Act, an amendment was offered in the Senate to extend the bill to employees already entitled to overtime compensation under section 23 of the Act of March 28, 1934, and to preclude payment of overtime under section 23. The Senate rejected that amendment (89 Cong. Rec., pp. 3176, 3185).

In presenting the Conference Committee Report on the bill, in the form in which it was subsequently enacted, Mr. Ramspeck stated in the House (89 Cong. Rec., p. 3654):

> This bill is to give additional pay to a million and a half employees of the Government *who are not covered by other pay legislation.*

U. S. GOVERNMENT PRINTING OFFICE 48